

REPORT TO THE HONORABLE
MAYOR AND CITY COUNCIL
COUNCIL AGENDA ITEM 339, JANUARY 9, 1990
GASLAMP QUARTER PLANNED DISTRICT ORDINANCE

On November 21, 1989, after conducting a noticed public hearing, the Council introduced an ordinance which amended the regulations respecting the design criteria and height restrictions for buildings in the Gaslamp Quarter. The Council, however, added an additional paragraph to the ordinance amendments which had the effect of allowing construction of building(s) from 125 feet in height to 325 feet in height in the blocks bounded by Fifth Avenue, K Street, Third Avenue, and the railroad/trolley track lines. This clause can be found at paragraph A.2.h. of section 103.0407 in the planned district ordinance at page 4 of 16.

On December 4, 1989, when the Gaslamp Quarter Planned District Ordinance was considered by the Council for adoption, questions were raised regarding the adequacy of noticing and the adequacy of the EIR as related to the additional paragraph added by the Council.

The Council thereafter directed the City Attorney's office to review the questions respecting adequacy of notice and the adequacy of the EIR and report back to the Council at its meeting on January 9, 1990, with its conclusions. The Council also continued the hearing on the adoption of the Gaslamp Quarter Planned District Ordinance amendments to January 9, 1990.

This office has reviewed the notice and the EIR prepared for this matter and has concluded that the Council was not in a legal position to take action to adopt a 325-foot height limitation for the following reasons:

1. The public notice for the Council hearing of this matter on November 21, 1989, provided for consideration of maximum height restrictions of 75 feet throughout the Gaslamp district, with a maximum height restriction of 125 feet for certain qualifying buildings

south of Island Avenue. However, the notice, in our view, was insufficient because it did not provide information which would apprise the public that a 325-foot height limitation would be considered for the blocks bounded by Fifth Avenue, K Street, Third Avenue, and the railroad/trolley track lines.

2. The EIR which was prepared for the project analyzed three options for height limitations in the Gaslamp Quarter: (a) a selective 75-foot height limit, (b) a single height limit (i.e., a 60-foot basic height limit with a 90-foot maximum height limitation), and (c) a selective 125-foot height limitation. The EIR, in our view, was insufficient because it did not address a 325-foot height limitation in general or with the specific reference to the project proposed for the blocks bounded by Fifth Avenue, K Street, Third Avenue, and the railroad/trolley track lines where the 325-foot height limit was applied.

In light of the above legal problems it would be the recommendation of this office to delete paragraph A.2.h. from the Gaslamp Quarter Planned District Ordinance and reintroduce the ordinance on January 9, 1990. The Council could also direct staff to revise the EIR and bring the 325-foot height limit language back to the Council for its consideration at such time as adequate environmental review has been performed.

Alternatively, the Council could direct the entire Gaslamp Quarter Planned District Ordinance be continued until such time as requisite environmental review has been performed. At such time, the revised ordinance would be returned to Council for reintroduction.

Respectfully submitted,
JOHN W. WITT
City Attorney

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